



THE COMMONWEALTH OF MASSACHUSETTS  
WATER RESOURCES COMMISSION

**Meeting Minutes for September 14, 2000**

***Commission Members in Attendance:***

Mark P. Smith	Designee, Executive Office of Environmental Affairs
Marilyn Contreas	Designee, Department of Housing and Community Development
Jeff Kapell	Public Member
Richard Thibedeau	Designee, Department of Environmental Management
Lee Corte-Real	Designee, Department of Food and Agriculture
Joe Pelczarski	Designee, Coastal Zone Management (non-voting)
Russ Cohen	Designee, Department of Fisheries, Wildlife and Environmental Law Enforcement
Joe McGinn	Designee, Metropolitan District Commission
Richard Butler	Public Member
David Rich	Public Member
Francis J. Veale	Public Member
Glenn Haas	Designee, Department of Environmental Protection

***Others in Attendance:***

Mike Gildesgame	DEM
Linda Marler	DEM
Michele Drury	DEM
Ron Washburn	DEM counsel
Martha Stevenson	League of Women Voters
Eileen Simonson	WSCAC
Bill Elliot	WSCAC
John Reinhart	DEP
Ming Yuan Pan	DEP
Jeff Hanson	Bluestone Energy
John Murphy	Bluestone Energy
Vicki Gartland	DEM
Steve Pearlman	DEP
Jacqueline Murphy	EOEA
Pine DuBois	Jones River Watershed Association
Lorraine Downey	MWRA

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**Agenda Item #1: Executive Director's Report:**

- The Governor signed the Community Preservation Act. This will allow communities to raise funds for open space, historic preservation and affordable housing.
- Executive Order 418 requires community development plans which analyze housing stock, environmental resources, transportation infrastructure and economic development opportunities. A guidebook will be published to provide guidance on how to develop those

plans. \$30,000 will be made available to each community for services. Water resources are a key component in these plans. Additional guidance will be available in the form of a GIS tool to provide a first cut look at these resources.

- Staff met with Weymouth to discuss sewer expansion. The town has I/I and overflow problems. They are under consent order to address these issues. One option is to enlarge the connection. This will trigger the Interbasin Transfer Act. All this work will be conducted under the consent order. Weymouth is 100% sewer, so inbasin discharge is not an option.
- Staff also met with Mansfield's consultant who was pleased to state that it only took 3 years to get through all the water supply permits for the Morrison Well, including the ITA. He suggested that we use a single point of contact, which is something we already do under the ITA.
- The League of Women Voters' annual meeting takes place next weekend. This meeting will focus on water issues. Smith has been invited to speak.

**Current conditions Report:** Marler reported that:

- We had a wet summer, but the last 2 weeks of August and the first 2 weeks of September have been dry.
- All regions are above 100% of the normal cumulative precipitation for the water year.
- Ground water levels high: above normal or normal, however, the eastern end of Cape Cod is still below normal.
- Streamflow has been variable across the state. The average is 88% of normal, but in the western region, some streamflows above normal; the northeast and mid regions are a low percentage of normal (due to the last 4 weeks), however, the recharge season is approaching.
- Fire danger is low.
- Drought indices and precipitation are on the wet side. The precipitation index is calling for extreme wet conditions in the western part of the state. There could be flood problems there. La Niña is officially over. The south Pacific is back to normal. The 2000 hurricane season has been active, but nothing has come up the east coast yet. A tropical storm is brewing, but it is not expected to hit this area. The predictions for September are for near normal temperatures and above normal precipitation.
- The reservoir level in Lynn is 75% of capacity, but this is in the normal range.

**Agenda Item 2: Recommended language change on third party standing under the Interbasin Transfer Act**

Last month DEP raised issues with the proposed language. DEM legal staff have been working with DEP legal staff to make sure that the proposed regulation change does not go beyond the Commission's intent, which was to formalize a third party's right to request that the WRC review a project. Staff is requesting that the vote be postponed to allow more time to discuss legal issues with DEP and conduct a full legal analysis.

DEP is concerned with the implications of the proposed regulation change on 30A issues (appeal rights). DEP is concerned that the proposed language broadens the appeal rights of third parties. After closer scrutiny, DEM staff agree that it might do this, which is not the intent. DEM will be working with DEP and the Attorney General's office on this issue and will return to the WRC once it has been resolved.

**Agenda Item 3: Request for additional information, Bluestone Energy Systems Interbasin Transfer Act application**

Bluestone is proposing to construct a desalinization plant in Dighton, in the tidal portion of the Taunton River. The water will be withdrawn from the Massachusetts Coastal basin, treated with conventional drinking water technology and then put through a reverse osmosis process to desalt the water and bring it to drinking water standards. Bluestone is then proposing to sell it to communities within the Taunton River basin.

This project first came before the WRC in 1995 and 1996. The proponents and Commission had questions concerning the applicability of the Act. After research into the intention of the Act and regulations, it was concluded that the Act applies. The WRC then had to determine how it would apply the Act to this project. The criteria address both environmental impacts and water supply management. Bluestone has no control over the management of the water departments that may become customers. Therefore, in 1996, the WRC approved a protocol for applying the criteria to this project. This is outlined in the March 1996 memo that was included in this month's package. The environmental criteria are to be addressed by Bluestone. The WRC had concerns about water conservation and protection of local sources. It was decided that any community which purchases water from Bluestone must submit an updated conservation plan. Any community which purchases more than 1 mgd from Bluestone must also demonstrate it had met the water supply management criteria of the Act.

Bluestone's Interbasin Transfer application was submitted as part of the DEIR in 1997. The WRC requested additional information under that process. Some of the information requested was provided in final EIR. The Secretary issued the certificate on the FEIR in late July 2000. The Secretary acknowledged that some issues were not addressed in the FEIR, but left these to be addressed under the permitting processes. All information we are requesting today came from comments on the FEIR and have to do with impacts of the withdrawal. We need a better understanding of how this project will affect the estuary.

Interbasin Transfer approval is just one of the numerous permits required for this project. MEPA is requiring a Notice of Project Change for any community which becomes a customer. Brockton is potentially a large customer. The City has met with Staff concerning the requirements of the Interbasin Transfer Act and how it will apply to them. Smith has drafted a letter clarifying how the requirements apply. Brockton is also concerned about Water Management Act issues. This project presents a unique set of issues for regulators: it is a new water supply wholesaler, a desalinization plant and it is privately owned. There are also issues about growth and secondary impacts.

Bluestone presented a response to Staff's request. Staff will review. If this response is complete, the formal technical review and public hearing process will begin.

**Agenda Item 4: DEP draft regulations on industrial holding tanks**

The WRC has responsibility to provide advice and, in some cases, consent on the implementation of water resources related Acts and regulations. DEP is requesting approval of these draft regulations.

There are four ways to deal with industrial wastewater discharges – ground water disposal, surface water discharge, sewer systems and holding tanks. These regulations pertain to holding tanks. DEP regulates industrial wastewater holding tanks because these tanks pose a threat to ground water in terms of illegal discharge, spills and discharge to septic systems. These regulations will also allow us to monitor large transfers from one POTW to another. The regulations cover containers and tanks, both stationary and mobile<sup>1</sup>, in-ground and above ground, and new and existing. Different tanks pose different concerns. Tanks inside drinking water supply areas are of more concern.

Provisions:

- A one-time certification process in order to inventory the location of tanks. (Containers don't need certification).
- Tanks in drinking water areas need to be certified every five years; secondary containment is required for all new in-ground tanks.

The WRC will wait to approve the regulations until after the public comment period.

**Agenda Item 5: Upcoming DEP regulations on sewer extension and connection permits**

The purpose of these proposed regulations is to allow DEP to focus on encouraging communities to do comprehensive wastewater planning, rather than requiring DEP to review the engineering specifications of new extensions and connections, which is something a town can do.

The new thresholds will increase the number of sanitary connections exempt from state permitting. This will allow DEP to more wisely use its limited resources. Currently, DEP looks at every sewer extension and every sanitary connection over 15,000 gpd. This translates to about 350 permit applications per year. DEP wants to concentrate on large, technically complex connections and put greater emphasis on assuring that POTWs meet their NPDES permits. The POTW is responsible for issuing local sewer extensions and connection permits. DEP's review is redundant. DEP wants to be able to define which permits are most important and represent the greatest threat to water quality.

DEP's authority to condition or deny sewer extension permits is limited. The capacity of the wastewater treatment plant to handle new connections is looked at on a piecemeal basis: only when there is a connection permit. DEP wants to move towards more comprehensive wastewater planning, where the capacity of a system is looked at both in terms of new connections, extensions, infiltration, inflow, combined sewer overflows and various other factors that affect the capacity of the plant. The proposed regulations will create an incentive for towns to do these plans.

DEP has considerable authority, even where state permits are not involved. DEP can issue moratoriums at any time on issuance of local connections and extensions and take over the authority to issue these permits if the town is not doing the right thing. All prohibitions on sewer

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<sup>1</sup> Mobile tanks are moved within a site. Those used to transport to a sewerage treatment plant are covered by DOT

use will stay in effect. Sewer ordinances in every town are based on a model ordinance that gives them the authority to control sewer extensions and connections. DEP can intervene if it doesn't think the current ordinance is effective. Any revisions to these ordinances must be approved by DEP.

The proposed regulations address two categories of community:

1. Municipalities without wastewater management plans approved by DEP. The regulations change the threshold for these communities. Right now projects generating <15,000 gpd are subject to DEP review. This will be raised to 30,000 gpd.
2. Municipalities with approved plans. The new regulations use MEPA thresholds to define projects that will still require state review.

These proposed regulations will go out to public comment at the same time as the industrial holding tank regulations. DEP will come back after that for approval.

**Meeting Adjourned**

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Minutes approved 11/8/01